

Remarks

This invention relates to a method and apparatus for using an appliance designed for one standard, such as HAVi, in a network designed for another standard, such as UPnP. Independent Claim 1 defines the invention in terms of a method, while independent Claim 9 defines the invention in terms of an apparatus.

The Examiner has asserted that Claims 1 and 9 are related as combination and subcombination. The Applicants can not agree. The Examiner has pointed to MPEP 806.05(c), which relates to the Criteria of Distinctness Between Combination and Subcombination. However, the Examiner has not shown that Claims 1 and 9 are related as a combination and a subcombination. In fact, since Claims 1 and 9 are directed to a method and an apparatus, respectively, no combination and subcombination is present. It is therefore clear that the Examiner's requirement for restriction should be withdrawn for this reason alone.

MPEP 806.03 specifically states:

“Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.”

In the instant application, there is only a single embodiment. Claims 1 and 9 are directed to different definitions of the same disclosed subject matter. It is therefore clear that restriction between Claims 1 and 9 should “never be required”, as set forth in MPEP 806.03.

MPEP 802.01 quotes 35 USC 121 and 37 CFR 1.141, that in order for Restriction to be proper, the inventions must be both independent and distinct. Related inventions are distinct if:

“the inventions as claimed are not connected in at least one of design, operation or effect.” See MPEP 802.01 II, 2nd paragraph.

In the instant invention, Claim 1 is written in the form of a method, whereas Claim 9 is written in the form of an apparatus. It is therefore clear that the inventions as defined by Claims 1 and 9 are not distinct, and are therefore not properly subject to restriction.

Furthermore, Claims 1 and 9 are directed to inventions which are not independent, since both claims relate to communication between a unit of one network type with a second network type. It is therefore clear that the inventions of Claims 1 and 9 are not independent.

The Examiner has asserted that the inventions of Claims 1 to 8 would be classified in Class 709. This may be correct, since this Class relates to Data Transferring. However, it is clear that Claim 9 would not be classified in Class 726. This class relates to Information Security. Claim 9 has nothing to do with information security.

The Applicants submit that it is clear that the same field of search is applicable to both Claims 1 and 9.

The Applicants therefore request the Examiner to reconsider the Requirement for Restriction.

In order to provide a complete response, the Applicants elect, With Traverse, the invention defined by Claims 1 to 8.

No fee is believed to have been incurred by virtue of this amendment. However if a fee is incurred on the basis of this amendment, please charge such fee against the Applicants' deposit account 07-0832.

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